

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANDERSON COUTINHO-SILVA,
Plaintiff

v.

USP LEWISBURG FOOD DIRECTOR
MR. RAMIREZ,
Defendant

No. 3:17cv0378

(Judge Munley)

FILED
SCRANTON

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PER 
DEPUTY CLERK

ORDER

AND NOW, to wit, this 20th day of November 2017, we have before us for disposition Chief Magistrate Judge Susan Schwab's report and recommendation (Doc. 24), which proposes that the plaintiff's complaint be dismissed for failure to state a claim upon which relief can be granted under Rule 12(b)(6), of the Federal Rules of Civil Procedure, and that plaintiff be granted leave to file an amended complaint.

No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we shall determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the

recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

- 1) The Chief Magistrate Judge's report and recommendation (Doc. 24) is **ADOPTED**;
- 2) Defendant's motion to dismiss (Doc. 12) is **GRANTED**;
- 3) Plaintiff is granted leave to file an amended complaint within 21 (twenty-one) days of this order; and
- 4) Failure to file an amended complaint in compliance with the report and recommendation and this order will result in the closing of this case.

BY THE COURT:



JUDGE JAMES M. MUNLEY
United States District Court